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EXAMINER	
CHEN, QING	

ART UNIT	PAPER NUMBER
2191	

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/725,612	ASARE ET AL.	
	Examiner	Art Unit	
	Qing Chen	2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 December 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 December 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This is the initial Office action based on the application filed on December 2, 2003.

Claims 1-15 are currently pending and have been considered below.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
It is not dated by two of the inventors.

Drawings

3. The drawings are objected to because the descriptive text labels are not in accordance with the specification in Figure 3, Elements 320, 335, and 345. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be

labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the Examiner, the Applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities:

- The specification contains the following typographical errors:
  - The word "application" in the sentence "simply replacing ***application*** out-dated versions ..." should be deleted in page 2, paragraph [0003].
  - The phrase "incorporated in and constitute part of the this specification ..." should presumably be read "incorporated in and constitute part of the specification ..." in page 7, paragraph [0013].
  - The comma (,) after the word "and" should be deleted in page 7, paragraph [0015].

Appropriate correction is required.

Claim Objections

5. **Claims 1, 3, 7, 10, and 12** are objected to because of the following informalities:

- **Claims 1 and 10** contain a typographical error: the phrase "identifying target platform requirements for installation a subject application component ..." should

presumably be read "identifying target platform requirements for installing a subject application component ..." in the first limitation.

- **Claims 1, 3, 7, 10, and 12** contain a typographical error: the comma (,) after the word "and" should be deleted before the final limitation.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. **Claims 7-9** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 7-9 are directed to systems. However, the structural components of the systems for performing the recited functionalities can be reasonably interpreted as computer software modules—software *per se*, since the specification discloses that the present invention can be realized in software. Therefore, the claims are directed to systems of functional descriptive material *per se*, and hence non-statutory. The claims constitute computer programs representing computer listings *per se*. Such descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer,

which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element, which defines structural and functional interrelationships between the computer program and the rest of the computer, that permits the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. **Claims 1-4, 7, 8, and 10-13** are rejected under 35 U.S.C. 102(e) as being anticipated by **Zimniewicz et al. (US 6,744,450)**.

As per **Claim 1**, Zimniewicz et al. disclose a component installation method comprising the steps of:

A. Identifying target platform requirements for installing a subject application component within a target specific installation script *(see Column 7, Lines 6-9; and Column 8, Lines 18-25)*;

B. Further identifying a listing of dependencies for said subject application and at least one specified relationship between said subject application and individual ones of said dependencies *(see Column 8, Lines 53-54 and 66-67; and Column 9, Lines 1-4 and 18-21)*;

C. Enforcing both said target platform requirements and said at least one specified relationship prior to installing said subject application component *(see Column 7, Lines 9-13 and 15-19; Column 8, Lines 4-7; Column 9, Lines 46-48; and Column 10, Lines 15-19 and 23-24)*; and

D. Aborting said installation where either one of said target platform requirements and said at least one specified relationship cannot be enforced *(see Column 8, Lines 56-60; and Column 10, Lines 24-27)*.

As per **Claim 2**, Zimniewicz et al. disclose a component installation method **as in Claim 1 above**, and further disclose that said further identifying step comprises the step of further identifying a listing of dependencies for said subject application and at least one specified relationship between said subject application and individual ones of said dependencies, wherein said at least one specified relationship is a relationship selected from the group consisting of a containment relationship, a usage relationship, a contradictory relationship and an equivalence relationship *(see Column 9, Lines 3-4)*.

As per **Claim 3**, Zimniewicz et al. disclose a component installation method **as in Claim 1 above**, and further disclose that said enforcing step comprises the steps of:

A. Determining whether all required ones of said dependencies can be accessed in said target platform *(see Column 11, Lines 3-13)*; and

B. For each required one of said dependencies which cannot be accessed in said target platform, locating and installing said required one of said dependencies in said target platform *(see Column 9, Lines 4-6 and 56-69; and Column 11, Lines 27-29 and 33-36).*

As per **Claim 4**, Zimniewicz et al. disclose a component installation method **as in Claim 3 above**, and further disclose that said determining step comprises the step of querying a registry of installed components in said target platform to identify components which have been installed in said target platform *(see Column 9, Lines 33-36; and Column 10, Lines 30-32).*

As per **Claim 7**, Zimniewicz et al. disclose a system for installing application components in a target platform, the system comprising:

A. A component installation engine configured to install application components and respective dependencies over a component distribution system *(see Figure 2, Element 79; Column 6, Lines 40-44; and Column 7, Lines 4-5)*;

B. A script processor coupled to said engine and programmed to parse target specific installation scripts to identify both a listing of dependencies for the application components and at least one specified relationship between the application components and individual ones of said respective dependencies *(see Figure 2, Element 85; and Column 7, Lines 9-13)*; and

C. A requirements verification processor programmed to enforce both target platform requirements for installing the application components and said at least one specified relationship

prior to installing the application components *(see Figure 2, Elements 85 and 87; and Column 7, Lines 15-19)*.

As per **Claim 8**, Zimniewicz et al. disclose a system for installing application components in a target platform **as in Claim 7 above**, and further disclose that said at least one specified relationship comprises a relationship selected from the group consisting of a containment relationship, a usage relationship, a contradictory relationship and an equivalence relationship *(see Column 9, Lines 3-4)*.

As per **Claim 10**, Zimniewicz et al. disclose a machine readable storage having stored thereon a computer program for component installation, the computer program comprising a routine set of instructions which when executed by the machine cause the machine to perform the steps of:

A. Identifying target platform requirements for installing a subject application component within a target specific installation script *(see Column 7, Lines 6-9; and Column 8, Lines 18-25)*;

B. Further identifying a listing of dependencies for said subject application and at least one specified relationship between said subject application and individual ones of said dependencies *(see Column 8, Lines 53-54 and 66-67; and Column 9, Lines 1-4 and 18-21)*;

C. Enforcing both said target platform requirements and said at least one specified relationship prior to installing said subject application component *(see Column 7, Lines 9-13 and*

15-19; Column 8, Lines 4-7; Column 9, Lines 46-48; and Column 10, Lines 15-19 and 23-24); and

D. Aborting said installation where either one of said target platform requirements and said at least one specified relationship cannot be enforced *(see Column 8, Lines 56-60; and Column 10, Lines 24-27)*.

As per **Claim 11**, Zimniewicz et al. disclose a machine readable storage having stored thereon a computer program for component installation **as in Claim 10 above**, and further disclose that said further identifying step comprises the step of further identifying a listing of dependencies for said subject application and at least one specified relationship between said subject application and individual ones of said dependencies, wherein said at least one specified relationship is a relationship selected from the group consisting of a containment relationship, a usage relationship, a contradictory relationship and an equivalence relationship *(see Column 9, Lines 3-4)*.

As per **Claim 12**, Zimniewicz et al. disclose a machine readable storage having stored thereon a computer program for component installation **as in Claim 10 above**, and further disclose that said enforcing step comprises the steps of:

A. Determining whether all required ones of said dependencies can be accessed in said target platform *(see Column 11, Lines 3-13)*; and

B. For each required one of said dependencies which cannot be accessed in said target platform, locating and installing said required one of said dependencies in said target platform *(see Column 9, Lines 4-6 and 56-69; and Column 11, Lines 27-29 and 33-36).*

As per **Claim 13,** Zimniewicz et al. disclose a machine readable storage having stored thereon a computer program for component installation **as in Claim 12 above**, and further disclose that said determining step comprises the step of querying a registry of installed components in said target platform to identify components which have been installed in said target platform *(see Column 9, Lines 33-36; and Column 10, Lines 30-32).*

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. **Claims 5, 6, 9, 14, and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Zimniewicz et al. (US 6,744,450)** in view of **Donohue (US 6,202,207)**.

As per **Claim 5,** Zimniewicz et al. disclose a component installation method **as in Claim 3 above**. However, Zimniewicz et al. does not explicitly disclose that said enforcing step further comprises the step of updating dated ones of said required ones of said dependencies which can

be accessed in said target platform with updated versions of said required ones of said dependencies.

In the same field of endeavor, Donohue discloses a method and mechanism for automatic updating of computer programs and synchronizing updates of computer programs and their pre-requisite programs to maintain interoperability, where required resources are updated if they are available locally (or on another machine in the case of software relying on some pre-requisite software operating on a remote machine) and have been verified *(see Column 9, Lines 59-63; and Column 11, Lines 46-63)*.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow updating dated ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies in the system of Zimniewicz et al., since Zimniewicz et al. already provided the current version of the component to allow the users to make informed decisions about updating or reinstalling components *(see Column 13, Lines 14-17)*. One would have been motivated to allow updating dated ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies in order to correct bugs and/or add new features in the software products *(see Column 1, Lines 21-23)*.

As per **Claim 6**, Zimniewicz et al. disclose a component installation method **as in Claim 3 above**. However, Zimniewicz et al. does not explicitly disclose that said enforcing step further comprises the step of patching flawed ones of said required ones of said dependencies which can

be accessed in said target platform with updated versions of said required ones of said dependencies.

In the same field of endeavor, Donohue discloses a method and mechanism for automatic updating of computer programs and synchronizing updates of computer programs and their pre-requisite programs to maintain interoperability, where required resources are updated if they are available locally (or on another machine in the case of software relying on some pre-requisite software operating on a remote machine) and have been verified *(see Column 9, Lines 59-63; and Column 11, Lines 46-63)*. In some cases, the resources comprise patch code for modifying an existing program (e.g. for error correction) and the patch's installation instructions *(see Column 9, Line 67; Column 10, Lines 1-2; and Column 12, Lines 13-19)*.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow patching flawed ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies in the system of Zimniewicz et al., since Zimniewicz et al. already provided the current version of the component to allow the users to make informed decisions about updating or reinstalling components *(see Column 13, Lines 14-17)*. One would have been motivated to allow patching flawed ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies in order to correct bugs and/or add new features in the software products *(see Column 1, Lines 21-23)*.

As per **Claim 9**, Zimniewicz et al. disclose a system for installing application components in a target platform **as in Claim 7 above**. However, Zimniewicz et al. does not

explicitly disclose that said component installation engine further comprises a communicative coupling to a repository of updated ones of said dependencies.

In the same field of endeavor, Donohue discloses a method and mechanism for automatic updating of computer programs and synchronizing updates of computer programs and their pre-requisite programs to maintain interoperability, where the installation of each updater component includes the update component registering itself with the operating system or another repository on the local computer system. The repository may be a central or distributed repository for the network *(see Column 8, Lines 1-9)*.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a communicative coupling to a repository of updated ones of said dependencies in the system of Zimniewicz et al., since Zimniewicz et al. already disclose that the program modules may be located in both local and remote memory storage devices *(see Column 4, Lines 62-67)*. One would have been motivated to incorporate a communicative coupling to a repository of updated ones of said dependencies in order to provide a central storage area of program modules for quick and efficient access.

As per **Claim 14**, Zimniewicz et al. disclose a machine readable storage having stored thereon a computer program for component installation **as in Claim 12 above**. However, Zimniewicz et al. does not explicitly disclose that said enforcing step further comprises the step of updating dated ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies.

In the same field of endeavor, Donohue discloses a method and mechanism for automatic updating of computer programs and synchronizing updates of computer programs and their pre-requisite programs to maintain interoperability, where required resources are updated if they are available locally (or on another machine in the case of software relying on some pre-requisite software operating on a remote machine) and have been verified *(see Column 9, Lines 59-63; and Column 11, Lines 46-63)*.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow updating dated ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies in the system of Zimniewicz et al., since Zimniewicz et al. already provided the current version of the component to allow the users to make informed decisions about updating or reinstalling components *(see Column 13, Lines 14-17)*. One would have been motivated to allow updating dated ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies in order to correct bugs and/or add new features in the software products *(see Column 1, Lines 21-23)*.

As per **Claim 15**, Zimniewicz et al. disclose a machine readable storage having stored thereon a computer program for component installation **as in Claim 12 above**. However, Zimniewicz et al. does not explicitly disclose that said enforcing step further comprises the step of patching flawed ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies.

In the same field of endeavor, Donohue discloses a method and mechanism for automatic updating of computer programs and synchronizing updates of computer programs and their pre-requisite programs to maintain interoperability, where required resources are updated if they are available locally (or on another machine in the case of software relying on some pre-requisite software operating on a remote machine) and have been verified *(see Column 9, Lines 59-63; and Column 11, Lines 46-63)*. In some cases, the resources comprise patch code for modifying an existing program (e.g. for error correction) and the patch's installation instructions *(see Column 9, Line 67; Column 10, Lines 1-2; and Column 12, Lines 13-19)*.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow patching flawed ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies in the system of Zimniewicz et al., since Zimniewicz et al. already provided the current version of the component to allow the users to make informed decisions about updating or reinstalling components *(see Column 13, Lines 14-17)*. One would have been motivated to allow patching flawed ones of said required ones of said dependencies which can be accessed in said target platform with updated versions of said required ones of said dependencies in order to correct bugs and/or add new features in the software products *(see Column 1, Lines 21-23)*.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. **Kenner et al. (US 6,314,565)** disclose a method for updating software components on a user terminal connected to a network provides for the automatic identification, retrieval, and installation of a selection of software components based on information contained in a script file and furnished by a user.

B. **Delo et al. (US 6,370,686)** disclose categorizing, accessing, and installing components and sending the location of a selected component to a requesting application.

C. **Marino et al. (US 6,681,391)** disclose a system and method for installing a software suite with multiple components on a computer system such that the determination of components to be installed or removed is made fully or partially transparent to the user.

D. **Te'eni et al. (US 6,725,452)** disclose a method for resolving dependency conflicts across diverse sets of functional entities while installing or removing specific operative elements in a computing environment.

E. **Bleizeffer et al. (US 6,735,767)** disclose computer program installation systems providing a central repository of information for consideration in planning the installation of a complex computer program.

F. **Sierer et al. (US 2004/0255291)** disclose a system and method for programmatically generating an application system installer using component dependency analysis, where the installer is operable to deploy an application system onto a target system to perform a desired function.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Qing Chen whose telephone number is 571-270-1071. The Examiner can normally be reached on Monday through Thursday from 7:30 AM to 4:00 PM. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James W. Myhre, can be reached on 571-270-1065. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

QC / QC
July 10, 2006

James W. Myhre
Supervisory Patent Examiner